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10/686,531	10/16/2003	Gerald Duhamel	14296-17US JA/Im	4017
31831 7590 09/20/2007 LABTRONIX CONCEPT INC. C/O OGILVY RENAULT 1981 MC GILL COLLEGE AVENUE SUITE 1600 MONTREAL, QUEBEC, H3A 2Y3 CANADA			EXAMINER HYLINSKI, STEVEN J	
			ART UNIT 3714	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,531

Applicant(s)

DUHAMEL ET AL.

Examiner

Steven J. Hylinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/04/2004.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

The applicant claims benefit of both provisional application 60/418,369 and 60/494,571. However, the examiner can only locate support for the claims 1-38 of the instant application back to 60/494,571. Therefore the claims 1-38 of the instant application will be treated as having a priority date of 08/13/2003.

Claim Objections

1. Claim 18 is objected to because of the following informalities: The claim is incomplete. Some information following "representation format and." is missing. Appropriate correction is required.
2. The claim numbered 167 is objected to because it is numbered inconsistently with the rest of the claims. This claim will be treated as number 17 by the examiner.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 and 34-37 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter. The preamble of claims 1-10 and 34-37 identify the claimed subject matter as "a data structure". A data structure is not patent eligible subject matter because it constitutes functional descriptive matter per se. Functional descriptive matter is only patent-eligible when the claim(s) require it to be executed from a physical computer-readable medium and to produce a tangible result. See MPEP 2106.01.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 4, 8, 14, 17-19, 34-35 and 37-38 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,616,531 to Mullins.

Mullins discloses an instant lottery game, which can be played either using paper tickets, or fully electronically on a casino gaming machine, in which the results from a lottery scratch-off game evaluation are used in a subsequent game evaluation. The subsequent game can take on the form of bingo, or of a letter collection game. (See abstract)

Re Claim 1,

A data structure for an electronic lottery ticket (Col. 6 Lines 23-30, a lottery ticket, and Col. 15 Lines 43-55, the lottery ticket can be fully electronic) used for the play of an electronic lottery game, said data structure comprising: primary-section data providing information on an electronic-lottery- ticket play outcome (Fig. 8-9. the scratch-off

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symbols in primary section **62a-c** can establish an instant lottery outcome, which is awarded as shown in Fig. 10 **66**); and variable-section data providing additional information on play representation of said electronic-lottery ticket (Fig. 9, sections **62a-c** contain graphic symbols), wherein said additional information determines electronic-lottery-ticket play representation without changing said electronic-lottery-ticket play outcome (Fig. 10 **66**, the symbols simply provide a graphical representation of a predetermined outcome).

Re Claim 4,

A data structure for an electronic lottery ticket used for the play of an electronic lottery game (Col. 6 Lines 23-30, a lottery ticket, and Col. 15 Lines 43-55, the lottery ticket can be fully electronic), said data structure comprising: primary-section data providing information on a primary play representation (Fig. 8-9, the scratch-off symbols in primary section **62a-c** can establish an instant lottery outcome, which is awarded as shown in Fig. 10 **66**); and subsequent-section data wherein each one of said subsequent-section data provides information on one subsequent play representations (Col. 6 Lines 29-41, and Col. 16 Lines 25-67, the subsequent play is a symbol collection game, which is shown as item **102** on the display of the electronic gaming machine of Fig. 16), taking place after said primary play representation (Col. 6 Lines 29-41, and Col. 16 Lines 25-67, after the lottery ticket outcomes have been uncovered), and wherein at least one of said subsequent-section data is correlated to information contained in said primary-section data (Col. 6 Lines 29-41, and Col. 16

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Lines 25-67, some of the uncovered symbols from the lottery ticket can be used in the symbol collection game).

Re Claim 8,

The data structure of claim 4, wherein ticket information based on said data structure is generated via a ticket generation program based on information of one a primary-play pay schedule and at least one subsequent-play pay schedule (Fig. 10, section **66** shows the pay schedule for the lottery ticket. Fig. 10 also discusses the pay schedule for "Trilogy Letter" collection game, the winner of which wins a progressive jackpot).

Re Claim 14,

A method of generating an electronic-ticket-lottery game using a population of electronic lottery tickets having a data structure (Col. 15 Lines 51-55, one or more tickets are generated electronically), said method comprising: establishing primary play information to generate based on a primary- play pay schedule (Fig. 4, the lottery ticket game **11B** is played to outcome **14B**, using Fig. 10 primary pay schedule **66** to determine which, if any, prize); generating primary-section data comprising said primary play information and placing said primary-section data in said data structure (Col. 15 Lines 51-55, the ticket is electronically displayed, Fig. 9, having primary section data **62**, slot symbols, which establishes the win amount, based on the primary play, the resultant scratch-off symbol combinations **62A-C**), said primary-section data including at least a primary-play ticket value (Fig. 9, **64A** shows a ticket value based on the primary play); establishing, in correlation to said primary-section data, subsequent- play data to

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be generated (Fig. 4, any "Trilogy Bingo Lottery Ticket" game elements, Fig. 9 **62A-C**, that have the identity of being letters, are used to generate a letter collection game, Fig. 4 **21B**); for each subsequent-play data (for each letter, for example letter "B" appearing in Fig. 9 **62A** on the lottery ticket): establishing subsequent play information to generate based on a subsequent-play pay schedule (Fig. 4 **13B** and **21B**, generating the letter collection game from at least some lottery game elements, based on the pay schedule shown in Fig 10, wherein collecting the TRILOGY letters or BINGO letters pays according to the ticket); generating a subsequent-section data comprising said play information; and placing said subsequent-section data in said data structure, said subsequent-section data including at least a subsequent-play value (establishing awards as outlined by pay schedule **65** in Fig. 10); and storing said data structure on a ticket storage medium (Col. 15 Lines 43-55, also the game is generated on electronic casino machine **98** shown in Fig. 16, wherein the letters that have been collected as the subsequent-section data are stored on the letter collection display **102**. The data is therefore inherently stored in computer memory in order for the electronic game to be functional).

Re Claim 17,

The method of claim 14, wherein primary- and subsequent-section data comprise information on play representation (See Figs. 8-10, the lottery ticket has pay schedules for primary-section lottery and subsequent-section letter collection games printed on the face).

Re Claim 18,

The method of claim 14, wherein primary- and subsequent-section data comprise information on at least one of play representation (Figs. 8-10 and Fig. 16 **102** and **106**, lottery ticket game and letter collection game).

Re Claim 19,

The method of claim 14, wherein primary-section data comprises electronic-lottery-ticket primary-play purchase fee information (Figs. 8-9, \$1 fee is printed on the ticket).

Re Claim 34,

A data structure for an electronic lottery ticket (Col. 6 Lines 23-30, a lottery ticket, and Col. 15 Lines 43-55, the lottery ticket can be fully electronic) used for the play of an electronic lottery game, said data structure comprising: a primary-section data of a fixed-size (Figs. 8-9, section **62** is the primary scratch-off section information, which has a predetermined number of symbols) on a primary ticket (Figs. 8-10, ticket **60**, also shown in Fig. 16 as ticket **106**); and subsequent-section data wherein each one of said subsequent-section data provides information on modification of said electronic lottery ticket play (Fig. 4, in step **13B**, at least some of the lottery ticket game elements are also used to play a letter collection game, which has its own separate winning amount, and also Col. 16 Lines 48-56).

Re Claim 35,

The data structure of claim 34, wherein said modification of electronic lottery ticket play comprises: providing information on ticket representation to be provided after representation of a ticket corresponding to primary-section data (Fig. 5, the primary-

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section lottery game **11B** is played first, step **36**, and then subsequent-section number collection game **22B** is played following); providing information on game modification to be provided during representation of a ticket corresponding to primary-section data (Fig. 9 and 10, the lottery ticket game discloses the additional progressive jackpot that the letter collection game can potentially add); providing information on player-selection option to be offered after representation of a ticket corresponding to primary-section data (player determines whether to play the number collection game **21B**, as shown in Fig. 5 step **42**); and providing information on additional representation differing presentation of current ticket from presentation of at least one other ticket representation (Fig. 10 lists the prize amounts, which can change the player's winning amount depending on whether or not the player wishes to play the subsequent-section number collection game **21B**).

Re Claim 37,

The data structure of claim 34, wherein said subsequent-section data comprises an association to a prize value (See Figs. 8 and 9, the subsequent-section letter collection game adds a progressive jackpot).

Re Claim 38,

The data structure of claim 34, wherein said primary-section data includes unique ticket identification (Fig. 10 **67** ticket barcode ID)

3. Claims 1-6, 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0127279 to Gatto et al. (Gatto).

Re Claim 1,

A data structure for an electronic lottery ticket (Abstract, an electronic lottery ticket that is to be emailed to players inherently must consist of structured data) used for the play of an electronic lottery game, said data structure comprising: primary-section data providing information on an electronic-lottery- ticket play outcome (Fig. 6, section **202** is a scratch-off game that provides an outcome); and variable-section data providing additional information on play representation of said electronic-lottery ticket (Fig. 1, instructions **110** are provided to the player, also background music **112** and promotional matter **120** are offered. Fig. 6, **604** provides sound effects to simulate scratching off the ticket, also see Paragraph 40, which describes instructions, graphics, and sound effects), wherein said additional information determines electronic-lottery-ticket play representation without changing said electronic-lottery-ticket play outcome (Fig. 1, Fig. 6 and Paragraph 46, the instructions **110**, the background music **112**, the promotional link **120** sound effects **604**, for example, do not affect the game outcome).

Re Claim 2,

The data structure of claim 1, wherein said play representation comprises at least one of an animation (Paragraph 46), a sound (Fig. 1 background music **112** and Fig. 6. scratch-off sound effects **604**), a graphic (Paragraph 46), a set of symbols, and a new play representation.

Re Claim 3,

The data structure of claim 1, further comprising subsequent play-section data (Figs. 7 and 10, winning or losing announcement **704** occurs after the primary section **202** has been scratched off), wherein subsequent play-section data comprises

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information on a subsequent- play representation taking place after a primary play representation (after primary section **202** has been scratched off, announcement **704** indicates the outcome, based on whether **202** results in winning or losing), wherein subsequent play-section data information is correlated to primary-section data (Figs. 7 and 10 **704**, whether a win has occurred as a result of primary section **202**).

Re Claim 4,

A data structure for an electronic lottery ticket used for the play of an electronic lottery game, said data structure comprising: primary-section data providing information on a primary play representation (Fig. 6, section **202** is a scratch-off game that provides an outcome); and subsequent-section data wherein each one of said subsequent-section data provides information on one subsequent play representations (Figs. 7 and 10, winning or losing announcement **704** occurs after the primary section **202** has been scratched off),, taking place after said primary play representation (after primary section **202** has been scratched off, announcement **704** indicates the outcome, based on whether **202** results in winning or losing), and wherein at least one of said subsequent-section data is correlated to information contained in said primary-section data (Figs. 7 and 10 **704**, whether a win has occurred as a result of primary section **202**).

Re Claim 5,

The data structure of claim 4, wherein primary- and subsequent-section data comprise information on electronic-lottery-ticket value (Fig. 7, primary section **202** contains various potential wining values for the ticket, and subsequent-section **704** discloses the \$50,000 winning value of the lottery ticket).

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Re Claim 6,

The data structure of claim 4, wherein said play representation comprises information on at least one of electronic-lottery-ticket outcome format (Fig. 1, instructions **110** inform the player that the game is of a scratch-off format) and game indicia of play representation (Fig. 1 **110** also indicates that the indicia revealed by scratching off the card must be matched).

Re Claim 9,

The data structure of claim 4, wherein information corresponding to at least one electronic lottery ticket is provided by a ticket distribution module to a player terminal upon request (Fig. 16, server **1604** distributes electronic lottery tickets via email, as described in step **S165**).

Re Claim 10,

The data structure of claim 4, wherein primary-section data comprises ticket identification information (Fig. 3, ticket ID **302**).

Re Claim 11,

A method of generating an electronic-ticket-lottery game using a population of electronic lottery tickets having a data structure (Figs. 13-14 and 16 disclose the steps of generating and distributing electronic lottery tickets through email), said method comprising: establishing primary play information to generate (generating the symbols based on a primary- play pay schedule (Paragraph 60, Lines 13-15, based on the pay schedule outlined in Table 1); generating primary-section data comprising said play information and placing said primary-section data in said data structure (Paragraph 60,

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Lines 13-19, symbols are placed randomly in the primary section **202**), said primary-section data including at least a primary-play ticket value (Fig. 7, scratched-off section **202** contains ticket values); establishing variable information data for modifying electronic-lottery- ticket play representation and placing said variable information data in said data structure (Fig. 1, instructions **110** are provided to the player, also background music **112** and promotional matter **120** are offered. Fig. 6, **604** provides sound effects to simulate scratching off the ticket, also see Paragraph 40, which describes instructions, graphics, and sound effects); and storing said data structure on a storage medium (Fig. 16, **S165**, the ticket has been emailed to players **1606**, and is thus inherently being stored in the memory of the player's computer).

Re Claim 12,

See the rejection of claim 2 above.

Re Claim 13,

See the rejection of claim 3 above.

4. **Claims 28-29 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,024,641 to Sarno.**

Re Claim 28,

A player terminal (Fig. 1, **12** and **14**) adapted for playing a lottery game (title and abstract) involving the use of electronic lottery tickets (Col. 5 Lines 40-52, and also Figs. 5-7, online web page lottery ticket representations **52**, **60**, **74**, also Col. 6 Lines 18-23) of variable information-size (Fig. 5, the player can choose how many gaming slots **56** to fill in with random number selections), said player terminal comprising: a communication

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arrangement for receiving said electronic lottery tickets (Col. 5 Lines 30-52, the player accesses a gaming server **12** which allows the player access to a web page **18**); and a play control arrangement for: causing the player terminal to request an electronic lottery ticket to the electronic lottery ticket storage medium (Col. 5 Lines 30-52, the player requests access from the gaming server **12**) and to receive it from the electronic lottery ticket storage medium (the server **12**); causing the player terminal to display a primary ticket representation upon reading of the electronic lottery ticket (Fig. 5); causing the player terminal to identify a number of subsequent tickets associated with said primary ticket (Fig. 5, multi-play capability **58** will automatically create future plays based on the same numbers the player, also see Col. 9 Lines 3-16, the replay feature **68** allows the play of subsequent tickets that are associated with the same login information that the player entered for the first ticket) and identifying representations of said subsequent ticket based on the electronic lottery ticket information (Col. 8 Lines 7-35, the subsequent multiplay tickets will be created one more time, three more times, six more times, or twelve more times, also Col. 9 Lines 3-16, the subsequent replay tickets will be correlated with the player's login information); causing the player terminal to display, one at a time, said subsequent ticket representations (Col. 8 Lines 7-35, the subsequent multi-play tickets will be created in one month increments, and Col. 9 Lines 3-16, each subsequent replay ticket follows the one before it) ; and causing the player terminal to award a prize to the player according to the electronic lottery ticket played (Fig. 5, the ticket shows a prize **54** associated with it, Col. 6 Lines 53-67 and Col. 7 Lines 1-5, the player will be instructed on how to claim a prize).

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Re Claim 29,

The player terminal of claim 28, further comprising a fee-receiving device to receive ticket purchase fees (Fig. 4, the player can place a credit card or other type of account on file, to pay for the game).

Re Claim 31,

The player terminal of claim 28, wherein said player terminal further comprises a format identification means (Col. 4 Lines 6-65, the provider computer **12** has a processor and memory, and user computer **14** comprises a programmable processor, and memory, to carry out the game instructions) identifying primary ticket outcome format (Fig. 2 **27**, whether the primary ticket is a single play, or whether it will trigger multiple plays) and a subsequent ticket outcome format (Fig. 5, whether the subsequent multi-play ticket is played 1 more time, 3 more times, 6 more times, or 12 more times) based on the electronic lottery ticket information (based on the primary play of ticket **52**) and causing the player terminal to modify at least one of said primary ticket format and said subsequent ticket outcome format (the number of subsequent multi-plays is modified based on which of buttons **58** the player selects).

Re Claim 32,

The player terminal of claim 28, wherein said ticket representations are provided on an electronic display (Fig. 1, computer monitor **20** shows the web-page representation of Fig. 5 **52**).

Re Claim 33,

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The player terminal of claim 28, wherein said electronic lottery tickets are stored on an electronic lottery ticket storage medium remote from said player terminal (Col. 4 Lines 32-40, the server computer **12** sends data to the user computer **14** over the internet).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto in view of OFFICIAL NOTICE.**

Re Claim 7,

Gatto teaches the data structure of claim 4, wherein the play representation of all information is contained in a single data packet based on said data structure (Fig. 1, an email **100** is a single data packet based on the data structure of a scratch-off lottery ticket).

However, Gatto lacks a single ticket purchase fee being required. It is notoriously well-known to require a purchase price for scratch-off lottery tickets.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have incorporated the teaching of OFFICIAL NOTICE, to require a single ticket purchase fee, into Gatto's analogous teaching of an electronic scratch-off

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lottery ticket, in order to fund the lottery (Paragraph 5 of Gatto discloses that it is typically required for the player to pay a fee for receiving a scratch-off lottery ticket).

7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,616,531 to Mullins, in view of USPN 6,991,541 to Lind et al. (Lind)

Re Claim 15,

Mullins teaches the method of claim 14, as discussed in the rejection of the claim above.

However, Mullins lacks further repeating steps of claim 14 until all tickets corresponding to said primary-play pay schedule have been generated and stored on said ticket storage medium, wherein the total amount of stored data structures composes the complete population of electronic lottery tickets of said game.

Lind discloses an analogous electronic lottery ticket system (abstract). Lind teaches generating all tickets (Fig. 3, **40**) having a primary-play pay schedule (Col. 5, Lines 17-19, outcome information stored for each ticket includes outcome value), and storing them on a storage medium (Fig. 3, **41** produce hardcopy record of gameset and store in secure location), wherein the total amount of stored data structures composes the complete population of electronic lottery tickets of said game (Fig. 3 and Col. 5 Lines 45-60, step **41** produces a hard copy record of the entire gameset, also at step **44** the subsets of the tickets are stored either at manufacturing computer **11** or at central computer **20**).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have incorporated the teachings of Lind into the analogous art

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of Mullins, because one of routine skill in the art would recognize that such steps must occur in order for a networked casino instant lottery game, such as Mullins, to be functional.

Re Claim 16,

Mullins in view of Lind further teach the method of claim 15, further comprising communicating said population to a ticket distribution module for electronic-lottery-ticket consumption (Lind Fig. 1 and Col. 4 Lines 21-30, central distribution computer system 20 sends tickets to communications arrangement 22 in order to provide tickets to the player modules).

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,616,531 to Mullins.

Re Claim 20,

Mullins teaches the method of claim 19. Mullins discloses, in Figs. 8-9, that the \$1 purchase price covers both the primary lottery jackpot game and also the subsequent bingo game.

Mullins does not disclose expressly that the subsequent-section data comprises electronic-lottery-ticket subsequent-play purchase fee information differing from said primary-play purchase fee information.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have had different purchase fees for the primary and subsequent games, instead of having both games covered by a single overall fee, because Applicant has not disclosed that having explicitly different

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fees provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a single overall purchase fee for the lottery game because even if it is desirable to have the primary and subsequent games cost different amounts, a single fee can be summed that will cover both games.

9. Claims 21-24 and 25-27 are rejected under 35 U.S.C. 103(a) as being anticipated by USPN 6,024,641 to Sarno, in view of US 2003/0027621 to Libby et al. (Libby).

Re Claim 21,

Sarno teaches a method of playing an electronic-lottery-ticket game involving consumption of electronic lottery tickets (Abstract) having information comprising primary-section data (Fig. 5, the user enters his or her preferred numbers into the sections 56, said method comprising: receiving a ticket purchase fee from a player (Fig. 4, the player can place a credit card or other type of account on file, to pay for the game); consuming at least one of said electronic lottery ticket in response to said fee receipt (Col. 5 Lines 40-65, the player uses the electronic lottery ticket to enter numbers or letter) wherein said consuming comprises: identifying, within said information contained in said electronic lottery ticket, said primary-section data (Fig. 5 and 7, the player is prompted to enter numbers into cells 56);

However, Sarno lacks variable information data for modifying electronic-lottery-ticket play representation, identifying, within said information contained in said electronic lottery ticket, said variable information data; identifying characteristics of said play

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representation in correlation with said variable information-data; and providing said play representation based on said primary- section data and said play characteristics, wherein an outcome is independent of said play characteristics; and awarding a prize according to said outcome.

Libby et al. teaches an analogous electronic lottery system (Abstract). Libby discloses variable information data for modifying electronic-lottery-ticket play representation (Paragraphs 9 and 10, a rendered animation representing the results of the lottery drawing to the player), identifying, within said information contained in said electronic lottery ticket, said variable information data (Paragraph 18, the player has a terminal **80**, shown in Fig. 4, having selection means for the player to pick lottery numbers, and where the player is presented with the graphically portrayed lottery drawing); identifying characteristics of said play representation in correlation with said variable information-data (Fig. 7 **S312** correlating the player's result to the graphically portrayed result); and providing said play representation based on said primary- section data and said play characteristics (Fig. 7 **S320 and S322**, selecting the winner based on his or her selections and the graphical depiction of the lottery draw) wherein an outcome is independent of said play characteristics (Fig. 7, the animation sequence **S308** is created after the generation of the winning numbers **S302** and serves only to illustrate the predetermined outcome); and awarding a prize according to said outcome (Fig. 7, **S322** the ID of the grand prize winner is transmitted). It is routine knowledge in the art that predetermined events such as lottery and bingo draws are graphically animated and presented to the player.

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It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Libby into the gaming method of Sarno, in order to make the player feel as if the predetermined lotto draw is occurring in real-time in front of him, therefore building the anticipation of the results.

Re Claim 22,

See the rejection of claim 21 above. In addition, Sarno in view of Libby teaches providing a primary play representation of a primary ticket based on primary-section data (Sarno Figs. 5-6), identifying, within said information contained in said electronic lottery ticket, said subsequent-section data (Sarno, Multi-play tickets **58**); and for each subsequent-section data, providing a subsequent play representation of a subsequent ticket based on said subsequent-section data (Sarno, Col. 8 Lines 7-35, the player's tickets will be played repetitively over a chosen time period); and awarding a prize according to said lottery ticket (Sarno, Fig. 7, jackpot **54**).

Re Claim 23,

Sarno in view of Libby further teaches requesting an electronic lottery ticket from a ticket distribution module and obtaining, upon said request, said electronic lottery ticket from said ticket distribution system. (Sarno, Col. 5 Lines 30-52, the player requests access from the gaming server **12**).

Re Claim 24,

Sarno in view of Libby further teaches crediting said player primary-ticket value in a win counter (Col. 8, Lines 45-54, in house account tracks the player's wins and additions to the account); for each subsequent-section data, taking a subsequent-ticket

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purchase fee from said win counter and crediting said player subsequent-ticket value in said win counter (Col. 8 Lines 45-54); and when a representation of all of the primary ticket and the subsequent tickets have been provided, using available credits in said win counter award prize to said player (Col. 8 Lines 45-54, the player can add money to a house account, the player can pay for games out of the account, and the player's winnings can be added to the account).

Re Claim 25,

Sarno in view of Libby further teach the method of claim 22, wherein comprises performing said consuming step on a player terminal (Sarno, Fig. 1, player terminal **12**).

Re Claim 26,

Sarno in view of Libby further teaches the method of claim 25, comprising storing said electronic lottery tickets on a ticket distribution module (Sarno, Col. 4 Lines 32-40, the server computer **12** sends data to the user computer **14** over the internet) and wherein said ticket distribution system provides said electronic lottery ticket upon request from said player terminal (Sarno, Col. 5 Lines 30-52, the player requests access from the gaming server **12**).

Re Claim 27,

Sarno in view of Libby further teaches the method of claim 22, wherein an outcome format of said primary ticket differs from an outcome format of said subsequent ticket (Sarno, ticket **74** is an instant play, and subsequent plays **58** are future plays).

10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sarno in view of OFFICIAL NOTICE.

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Re Claim 30,

Sarno teaches the player terminal of claim 29. However, Sarno lacks a win counter recording credited prizes of a single ticket and withdrawing of subsequent ticket purchase fees.

It is notoriously well-known in the art for electronic games of chance to incorporate credit and win meters embodied in an electronic display, which are incremented as wins increase and credits change.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have incorporated the win and credit meters taught by OFFICIAL NOTICE into the apparatus disclosed by Sarno, in order to provide a visual depiction of the player's win and credit status during game play.

11. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,616,531 to Mullins, in view of US 2004/0127279 to Gatto.

Re Claim 36,

Mullins teaches the data structure of claim 35, as discussed in the rejection of the claim above. However, Mullins lacks an additional representation comprising an animation played during the representation of said ticket.

The analogous electronic instant scratch-off lottery ticket of Gatto has been discussed above, the discussion of which is incorporated herein. Gatto teaches an additional representation comprising an animation played during the representation of said ticket (Figs. 6-7 section 202 and Paragraphs 28, 31, and 46, the initially hidden

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scratch-off section is animated in various ways as it is "scratched off" to reveal the hidden prize amounts.)

It would have been obvious to incorporate the teaching of Gatto, to animate the player scratching-off the electronic instant lottery ticket, into the analogous electronic instant scratch-off lottery ticket of Mullins, in order to make the virtual electronic lottery ticket appeal to the player by making it interactive and realistic.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 7,163,459 to Tanskanen, 6,241,606 to Riendeau et al, 5,046,737 to Fienberg, 6,168,521 to Luciano et al., 5,871,398 to Schneier et al., 4,689,742 to Troy et al., 6,773,345 to Walker et al., 2003/0060257 to Katz. et al., 6,899,622 to Lind et al., 5,949,042 to Dietz. et al., 5,647,592 to Gerow, 6,527,175 to Dietz et al., 5,628,684 to Bouedec, 7,179,167 to deKeller, 6,964,611 to Packes et al., 2006/0252491 to Tulley et al., 2004/0204222 to Roberts, 6,220,961 to Keane et al., 2003/0114210 to Meyer et al., 6,277,026 to Archer, 7,052,391 to Walker et al. , and 6,267,670 to Walker et al, all disclose multiplayer lottery methods and apparatuses having teachings pertinent to the instant application.

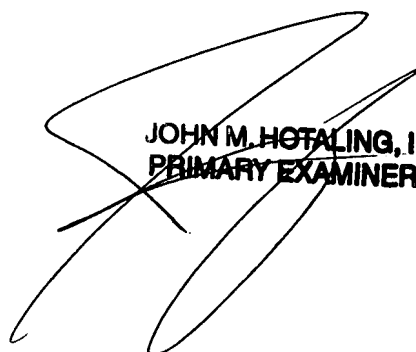
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Hylinski whose telephone number is 571-270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/SJH/ 09/10/2007



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